

(ccc)

HOWARD TRAPP INCORPORATED
200 Saylor Building
139 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone (671) 477-7000

Attorney for Plaintiff

FILED
DISTRICT COURT OF GUAM

SEP - 1 2006 *mba*

MARY L.M. MORAN
CLERK OF COURT

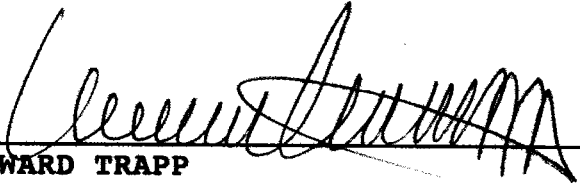
DISTRICT COURT OF GUAM

ROBERTO J. DEL ROSARIO,	(	Civil Case No. 04-00028
)	
Plaintiff,	(	SUBMISSION FOR SETTLEMENT
	)	AND APPROVAL (FED. R. APP.
vs.	(	P. 10(c))
)	
JAPAN AIRLINES INTERNATIONAL	(
CO., LTD.,)	
	(
Defendant.)	

Plaintiff respectfully submits the documents hereto
annexed for settlement and approval pursuant to Fed. R. App. P.
10(c).

Dated, Hagåtña, Guam,

August 31, 2006.



HOWARD TRAPP
For HOWARD TRAPP INCORPORATED
Attorney for Plaintiff

(DOCUMENT\Subforstlmt)

ORIGINAL

(ryu)

HOWARD TRAPP
Howard Trapp Incorporated
200 Saylor Building
139 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone (671) 477-7000

Attorney for Plaintiff-Appellant

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERTO J. DEL ROSARIO, (No.
(
Plaintiff-Appellant, ((Guam Dist. Ct. Civ.
(Case No. 04-00028)
vs. (
(NOTICE OF PORTIONS OF
JAPAN AIRLINES INTER- (TRANSCRIPT PLAINTIFF-
NATIONAL CO., LTD., (APPELLANT INTENDS
(TO ORDER
Defendant-Appellee.)

PLEASE TAKE NOTICE that the portions of the entire transcript
which Plaintiff-Appellant intends to order on appeal are transcripts of the
proceedings held before United States Magistrate Judge Joaquin V.E. Manibusan,


COPY

(No. (Guam Dist. Ct. Civ. Case No. 04-00028))
NOTICE OF PORTIONS OF TRANSCRIPT PLAINTIFF-APPELLANT
INTENDS TO ORDER

Jr., on March 30 and April 20, 2006.

Dated, Hagåtña, Guam,

August 22, 2006.



HOWARD TRAPP
Attorney for Plaintiff-Appellant

(DOCUMENT\NtcTransc.RDelRosario)

CARLSMITH BALL LLP

DAVID P. LEDGER
ELYZE J. MCDONALD
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Defendant-Appellee
Japan Airlines International Co., Ltd.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERTO J. DEL ROSARIO,

Plaintiff-Appellant,

vs.

JAPAN AIRLINES INTERNATIONAL CO.,
LTD.,

Defendant-Appellee.

No. _____

(Guam Dist. Ct. Civ. Case No. 04-00028)

**DEFENDANT-APPELLEE'S
AGREEMENT OF NOTICE OF
PORTIONS OF TRANSCRIPTS
PLAINTIFF-APPELLANT INTENDS
TO ORDER AND DEFENDANT-
APPELLEE'S NOTICE OF PORTIONS
OF TRANSCRIPT DEFENDANT-
APPELLEE DEEMS NECESSARY TO
THIS APPEAL**

Defendant-Appellee is in receipt of, and does not object to, Plaintiff-Appellant's Notice of Portion of Transcripts Plaintiff-Appellant Intends to Order. Defendant-Appellee further gives notice that it deems the transcript of the status conference held on March 1, 2006, necessary to this appeal.

DATED: Hagåtña, Guam, August 24, 2006.

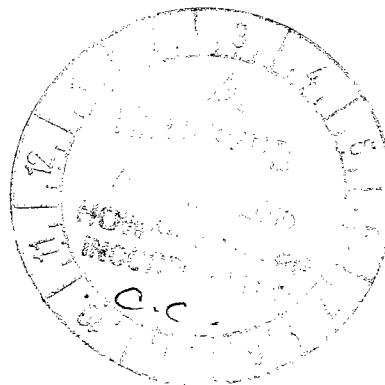
CARLSMITH BALL LLP

Elyze J. McDonald

ELYZE J. MCDONALD

Attorneys for Defendant-Appellee
Japan Airlines International Co., Ltd.

R. Del Rosario
vs. Japan Airlines



Def. appellee's
agreement of etc
of portions of
transcripts plaintiff
appellant intends
to order & def-
appellee's etc
of portions of
transcript def-
appellee deems
necessary to this
appeal

(ryu)

HOWARD TRAPP
Howard Trapp Incorporated
200 Saylor Building
139 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone (671) 477-7000

Attorney for Plaintiff-Appellant

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERTO J. DEL ROSARIO,	(	No.
)	
Plaintiff-Appellant,	(	(Guam Dist. Ct. Civ.
	)	Case No. 04-00028)
vs.	(
)	
JAPAN AIRLINES INTER-	(	PLAINTIFF-APPELLANT'S
NATIONAL CO., LTD.,	)	REPLY TO DEFENDANT-
	)	APPELLEE'S RESPONSE TO
	(	PLAINTIFF-APPELLANT'S
Defendant-Appellee.	)	NOTICE OF PORTIONS OF
	(	TRANSCRIPT PLAINTIFF-
	)	APPELLANT INTENDS TO
	(	ORDER

Plaintiff-Appellant is in receipt of Defendant-Appellee's response to his Notice of Portions of Transcript Plaintiff-Appellant Intends to Order on appeal.

COPY

RECEIVED
CARLSMITH BALL

9:49 am

(PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT-APPELLEE'S
RESPONSE TO PLAINTIFF-APPELLANT'S NOTICE OF PORTIONS OF
TRANSCRIPT PLAINTIFF-APPELLANT INTENDS TO ORDER)

No. (Guam Dist. Ct. Civ. Case No. 04-00028)

Defendant-Appellee demands of Plaintiff-Appellant that an additional part of the proceedings be ordered; Defendant-Appellee deems a transcript of the status conference of March 1, 2006, necessary to the appeal.

A transcript of the status conference is unavailable.

The status conference was not recorded.

Fed. R. App. P. 10 provides, "If the transcript of a hearing . . . is unavailable, the appellant may prepare a statement of the evidence or proceedings from the best available means, including the appellant's recollection."

Plaintiff-Appellant suggests that he should not have to prepare a statement of the status conference, because the minutes of the status conference are the best available evidence of the status conference, and they will be a part of the record on appeal as a matter of course. (Fed. R. App. P. 10(a); 9th Cir. R. 10-2(b).)

A copy of the minutes are hereto annexed and for all purposes made a part hereof by this reference thereto.

Plaintiff-Appellant awaits Defendant-Appellee's advice as to how it

(PLAINTIFF-APPELLANT'S REPLY TO DEFENDANT-APPELLEE'S
RESPONSE TO PLAINTIFF-APPELLANT'S NOTICE OF PORTIONS OF
TRANSCRIPT PLAINTIFF-APPELLANT INTENDS TO ORDER)

No. (Guam Dist. Ct. Civ. Case No. 04-00028)

wishes to proceed in the premises.

Dated, Hagåtña, Guam,

August 29, 2006.


HOWARD TRAPP
Attorney for Plaintiff-Appellant

(DOCUMENT\RplyDefRspnse.RDelRosario)

7002 0860 0001 5079 1293

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
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Postage	\$ 1.59
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AUG 30 2006
GUAM

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DISTRICT COURT OF GUAM

MAR - 1 2006 *JP*

MARY L.M. MORAN
CLERK OF COURT

(41)

DISTRICT COURT OF GUAM

TERRITORY OF GUAM

ROBERT J. DEL ROSARIO,

Civil Case No. 04-00028

Plaintiff,

vs.

JAPAN AIRLINES INTERNATIONAL
CO., LTD.,

MINUTES

Defendant.

() SCHEDULING CONFERENCE

()

PRELIMINARY PRETRIAL CONFERENCE

() FINAL PRETRIAL CONFERENCE

(✓)

STATUS CONFERENCE
(March 1, 2006, at 9:00 a.m.)

Notes: Attorney William Gavras appeared on behalf of the Plaintiff, who was not present.

Appearing on behalf of the Defendant was Attorney David Ledger.

Mr. Ledger advised the Court that he had accepted on February 24, 2006, what he believed was a valid counteroffer proffered by the Plaintiff on said date. Mr. Ledger further informed the Court that on February 27, 2006, Mr. Gavras advised him that the Plaintiff now wanted to proceed to trial. Mr. Gavras confirmed that his client's present position is to proceed forward with a trial date. Based on the current posture of the case and the uncertainty surrounding the alleged settlement, Judge Manibusan stated that the trial dates would be held in abeyance until resolution is reached on the settlement issue.

Mr. Ledger stated that the deposition that the Defendant had noticed for Friday, March 3, 2006, will be canceled since the Defendant believes that said deposition is no longer

1 necessary. Mr. Ledger also agreed to submit a proposed Order directing counsel to each file an
2 affidavit setting forth the facts that transpired between them that resulted in the Defendant's
3 belief that a valid and enforceable settlement was reached between the parties. Said affidavits of
4 counsel shall be simultaneously filed on March 10, 2006. The Plaintiff himself shall have the
5 option of filing an affidavit, if he wishes, no later than March 15, 2006.

6 The Status Conference concluded at 9:28 a.m.

7 Dated: March 1, 2006.

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10 JUDITH P. HATTORI
11 Law Clerk
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DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp Incorporated, Howard Trapp, Esq., the attorney for Plaintiff-Appellant herein, and that I served the document to which this declaration is annexed on Elyze J. T. McDonald, Esq., one of the attorneys for Defendant-Appellee herein, by leaving a copy thereof at the offices of Carlsmith Ball LLP, Bank of Hawaii Building, Suite 401, Hagåtña, Guam, Ms. McDonald's last known address, with a person in charge thereof, on August 30, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 30, 2006, at Hagåtña, Guam.


REINA Y. URBIEN

CARLSMITH BALL LLP

DAVID P. LEDGER
ELYZE J. MCDONALD
Bank of Hawaii Bldg., Suite 401
134 West Soledad Avenue, P.O. Box BF
Hagåtña, Guam 96932-5027
Tel No. 671.472.6813

Attorneys for Defendant-Appellee
Japan Airlines International Co., Ltd.



UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ROBERTO J. DEL ROSARIO,

Plaintiff-Appellant,

vs.

JAPAN AIRLINES INTERNATIONAL CO.,
LTD.,

Defendant-Appellee.

No. _____

(Guam Dist. Ct. Civ. Case No. 04-00028)

**DEFENDANT-APPELLEE'S
SUPPLEMENTAL STATEMENT OF
PROCEEDINGS; DECLARATION OF
SERVICE**

Pursuant to Federal Rule of Appellate Procedure 10(c), Defendant-Appellee Japan Airlines International Co., Ltd. supplements the record in this matter with regard to the March 1, 2006 Status Conference. The Status Conference was not recorded.

Appellee does not dispute any of the statements made in the Minutes of the Status Conference, filed on March 1, 2006, but supplements the Minutes and the record with the following information:

1. The Court requested both counsel to submit affidavits setting forth their respective accounts of the events and conversations leading up to the settlement Appellee seeks to enforce. In particular, the Court suggested that counsel put in affidavit form what was said by

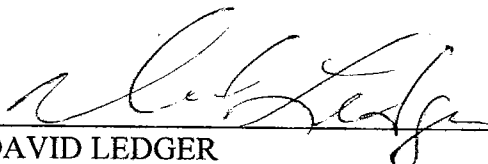
each of them with respect to settlement offers and counter offers during their phone calls in late February 2006. Then Counsel for Plaintiff-Appellant suggested that such affidavits ought to be submitted in response to a written Court order. Thus, at the Court's request, Counsel for Defendant-Appellee agreed to draft a proposed Order directing counsel to each file an affidavit setting forth the events and conversations that transpired between them which resulted what in Appellee contends is a valid and enforceable settlement between the parties.

2. Consistent with settlement, Counsel for Defendant-Appellee informed the Court (and then counsel for plaintiff) that the deposition of the plaintiff scheduled for March 3, 2006 would not go forward because settlement of the action rendered the deposition unnecessary. In other words, it was made clear that the deposition was no longer needed, as opposed to simply being on hold due to any uncertainty surrounding the settlement.

This supplemental information is based on the recollection of undersigned counsel.

DATED: Hagåtña, Guam, August 30, 2006.

CARLSMITH BALL LLP



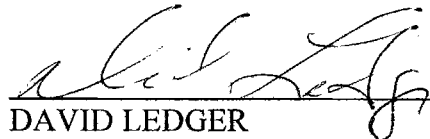
DAVID LEDGER
Attorneys for Defendant-Appellee
Japan Airlines International Co., Ltd.

DECLARATION OF SERVICE

I, David Ledger, hereby declare under penalty of perjury of the laws of the United States, that on the 30th day of August 2006, I will cause to be served, via hand delivery, a true and correct copy of the DEFENDANT-APPELLEE'S SUPPLEMENTAL STATEMENT OF PROCEEDINGS upon Plaintiff's Counsel of record as follows:

Howard Trapp, Esq.
Howard Trapp Incorporated
200 Saylor Building
139 Chalan Santo Papa
Hagåtña, Guam 96910

Executed this 30th day of August 2006 at Hagåtña, Guam.



DAVID LEDGER

DECLARATION OF SERVICE

I, Reina Y. Urbien, declare that I am an administrative assistant employed in the office of Howard Trapp, Esq., the attorney for Plaintiff herein, and that I served the document to which this declaration is annexed on David P. Ledger, Esq., one of the attorneys for Defendant herein, by leaving a copy thereof at the offices of Carlsmith Ball LLP, Bank of Hawaii Building, Suite 401, Hagåtña, Guam, Mr. Ledger's last known address, with a person in charge thereof, on September 1, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 1, 2006, at Hagåtña, Guam.



REINA Y. URBIEN